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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,280	07/24/2003	Jeremy Stein	1148_006	3656
20874	7590	05/19/2006	EXAMINER	
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			EPSHTEYN, ALEXANDER	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,280	Applicant(s) STEIN, JEREMY	
	Examiner Alex Epshteyn	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In the instant application, the abstract is longer than 150 words and must be reduced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-9, and 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Trucksess (US Patent 6,435,507).

In regards to claim 1, Trucksess teaches of a method of playing a casino card game with at least one player, comprising the steps of providing a deck of cards having

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at least five different symbols, shuffling the deck of cards, affording each player an option to place an ante wager to participate in the game, and dealing five cards to each player and two cards to the dealer (1: 45-67), providing each player an option to continue play by placing a bet wager and to also surrender their ante wager (4: 1-43), providing each player with an election to use as their final five card hand three of the five cards dealt to the player plus either the other two of the five cards dealt to the player or the two cards of the dealer hand (2: 1-5), providing each player with an option to arrange in a desired order at least three preselected cards in the player's final hand whereby the cards in the player's final hand possess a final sequential order, and settling the ante and bet wagers according to at least one pay table including predetermined winning arrangements of cards and associated payout odds (2: 1-24).

In regards to claim 2, Trucksess teaches of a pay table that includes winning arrangements of cards for three, four, or five card combinations of symbols (2: 1-24).

In regards to claim 3, Trucksess teaches of a casino card game that is played on a casino gaming table with a human dealer.

In regards to claims 6-9, Trucksess teaches of pay-tables for three, four, and five card combinations that are substantially similar to those in claims 6-9 (see columns 4-7). Whereas, some of the pay tables may not be exactly the same as those stated in claims 6-9, Trucksess states that those skilled in the art will recognize that the payoffs and winning combinations can be varied as desired (8: 56-61). Thus, any additional combination for a pay off table is anticipated by Trucksess.

In regards to claims 13 and 14, Trucksess teaches of dealing two of the five player cards face down and the dealer cards face up (7: 1-17).

In regards to claims 15, Trucksess teaches of being able to increase a bet wager (4: 1-53). It is inherent to card games that an additional wager is larger then the ante wager.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 10-12, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trucksess and further in view of Jones (US Patent 5,374,067).

In regards to claim 4 and 18, while Trucksess does not explicitly state that his disclosed game can be played on an electronic video representation as well as a live casino table game, it is obvious to one skilled in the art that a live table card game can be played on a video gaming device displaying electronic representations of cards on a video screen. Jones serves as an example of this obvious matter to one skilled in the art in his background section (1: 20-23).

In regards to claim 5 and 17, what Trucksess discloses has been described above and incorporated herein. Trucksess does not disclose a progressive jackpot element in his game, however, it is obvious to one skilled in the art at the time the

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invention was made that a progressive jackpot is commonly included in live table card games to add an interesting and exciting element to the underlying table card game.

Jones, in the same field of endeavor, teaches of such a progressive jackpot component in a live table card game (7: 20-36). It would be obvious for one skilled in the art at the time the invention was made to incorporate a progressive jackpot component into the game as taught by Trusses that will add a exciting element to the underlying card game which would also increase the popularity of the game.

In regards to claims 10-12, a progressive jackpot component in a live table game includes a payout schedule for the progressive jackpot such as taught by Jones. It would be obvious for one skilled in the art at the time the invention was made to incorporate a separate progressive jackpot payout table in the game of Trucksess to include an exciting and separate winning possibility for the underlying game.

In regards to claim 16, what Trucksess teaches in regards to the method of playing a underlying card game with dealing cards, providing for a player to choose to play their cards or the dealer cards, and awarding a player based on certain combinations of cards has been discussed above. Claim 16 adds a limitation of a second payout schedule such as discussed above with regards to a progressive jackpot.

In regards to claim 20, Trucksess teaches of being able to increase a bet wager (4: 1-53). It is inherent to card games that an additional wager is larger then the ante wager.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


XUAN M. THAI
SUPERVISORY PATENT EXAMINER
TC3700